

**ARTICLE #**  
(Two-thirds vote)

**AMEND ZONING BYLAW – NON CONFORMING LOTS**

To see if the Town will vote to amend the Zoning Bylaw as follows:

**A. Non-Conforming Lots**

1. In Section 8.1.3, delete the existing section and replace it with the following:

Reconstruction of Single- and Two-Family Dwellings on Nonconforming Lots – A STRUCTURE lawfully in single-family residential USE on a nonconforming LOT may be razed and rebuilt for single-family residential USE; and a STRUCTURE lawfully in two-family residential USE on a nonconforming LOT may be razed and rebuilt for two-family residential USE; in both cases subject to the following conditions and limitations:

- 8.1.3.1 The replacement STRUCTURE shall not exceed the FLOOR AREA RATIO on the LOT of the STRUCTURE that existed on the LOT before it was razed or damaged.
- 8.1.3.2 The replacement STRUCTURE shall meet all minimum yard and maximum height requirements of this Bylaw.
- 8.1.3.3 The FLOOR AREA RATIO shall be determined by using either architectural and plot plans for the existing structure to be razed or, in the absence of such architectural and plot plans, the FLOOR AREA RATIO shall be determined by using the information on record at the Town of Acton Assessor's office.
- 8.1.3.4 Additions to the replacement STRUCTURE may be made after two years following the date of initial occupancy of the replacement STRUCTURE, if otherwise permissible.

*[Note Section 8.1.3 currently reads:*

*Replacement of Single- and Two-Family Dwellings on Nonconforming Lots – A STRUCTURE in single family residential USE on a nonconforming LOT may be razed and rebuilt for single family residential USE; and a STRUCTURE in two-family residential USE on a nonconforming LOT may be razed and rebuilt for two-family residential USE; in both cases subject to the following conditions and limitations:*

- 8.1.3.1 *The replacement STRUCTURE shall not exceed the FLOOR AREA RATIO on the LOT of the STRUCTURE that existed on the LOT before it was razed or damaged.*
- 8.1.3.2 *The replacement STRUCTURE shall meet all minimum yard and maximum height requirements of this Bylaw.*
- 8.1.3.3 *In the absence of architectural and plot plans for the existing structure to be razed, the FLOOR AREA RATIO shall be determined by using the information on record at the Town of Acton Assessor's office.*
- 8.1.3.4 *Additions to the replacement STRUCTURE may be made after two years following the date of initial occupancy of the replacement STRUCTURE, if*

*otherwise permissible and subject to any permits and special permits that may be required.]*

2. In Section 8.1.4 – Extensions, alterations, or changes of Single- and Two-Family Dwellings on Nonconforming Lots, delete the existing section and replace it with the following:

One or more extensions, alterations or changes to a lawful single-family or two-family residential STRUCTURE on a nonconforming LOT shall be deemed not to increase any nonconformity and shall not require special permits under Section 8.1.5, provided that such extensions, alterations or changes comply with all applicable yard requirements and in total do not increase the size of the STRUCTURE by more than 50% of the GROSS FLOOR AREA in existence on April 1, 2012 or the date that the LOT became nonconforming, whichever is later. The GROSS FLOOR AREA shall be determined by using either architectural and plot plans for the existing structure or, in the absence of such architectural and plot plans, GROSS FLOOR AREA shall be determined by the information on record at the Town Assessor's Office,

*[Note Section 8.1.4 currently reads:*

*One or more extensions, alterations or changes to a single or two-family residential STRUCTURE on a nonconforming LOT shall be deemed not to increase any nonconformity and shall not require special permits under Section 8.1.5, provided that such extensions, alterations or changes comply with all applicable yard requirements and in total do not increase the size of the STRUCTURE by more than 15% of the GROSS FLOOR AREA in existence on April 1, 2012 or the date that the LOT became nonconforming, whichever is later.]*

3. In Section 8.1.5, delete the existing section and replace it with the following:

In all other cases, the Board of Appeals may, by special permit, allow such reconstruction of, or extension, alteration or change to a single- or two-family residential STRUCTURE on a nonconforming LOT, including the reconstruction of a larger structure than otherwise allow under Section 8.1.3, where it determines either that the proposed modification does not increase the nonconformity or, if the proposed modification does increase the nonconformity, it will not be substantially more detrimental to the neighborhood than the existing STRUCTURE on the nonconforming LOT.

*[Note Section 8.1.5 currently reads:*

*In all other cases, the Board of Appeals may, by special permit, allow such reconstruction of, or extension, alteration or change to a single or two-family residential STRUCTURE on a nonconforming LOT, where it determines either that the proposed modification does not increase the nonconformity or, if the proposed modification does increase the nonconformity, it will not be substantially more detrimental to the neighborhood than the existing STRUCTURE on the nonconforming LOT.]*

, or take any other action relative thereto.

### **SUMMARY**

This article increases the by-right threshold for extensions, alterations or changes to a structure lawfully used as a single-family or two-family dwelling on a non-conforming lot from 15% to 50% of the size of the existing structure. The size of the existing structure is measured in Gross Floor Area, which is determined by architectural plans and/or plot plans, or in their absence, by the information on record at the Town Assessor's Office. There are many lots in Acton that are non-conforming with respect to minimum frontage or area. Without some accommodation in the zoning bylaw, the State statute, M.G.L. Chapter 40A, § 6, would require that every extension, alteration, or change to a dwelling on a non-conforming lot is subject to a special permit and cannot be done by-right.

This State statute provides the minimum protection above which a town is free to provide more liberal protection to nonconforming lots and structures. The intent of this article is to clearly and expressly provide a more liberal approach than M.G.L. Chapter 40A, § 6, for the protection and accommodation of extensions, alterations or changes to a single-family or two-family dwelling structure on a non-conforming lot. The proposed amendment provides an objective threshold and specific criteria for by-right extensions, alterations or changes to such a single-family or two-family dwelling structure on a non-conforming lot.

Currently, the zoning bylaw provides that a by-right extension, alteration or change to a single- or two-family dwelling structure on a non-conforming lot is limited to a 15% increase to the size of the existing structure. Any increase above 15% currently requires a special permit. After the adoption of the 15% threshold in April 2012 there have been 16 special permit applications under this bylaw section, and all were granted. Twelve of these special permits granted an increase of less than 50%. By adopting this Bylaw change, the Town would acknowledge that an increase of up to 50% to the size of a structure on a single- family or two-family dwelling structure on a non-conforming lot is not more detrimental to Acton neighborhoods than the existing structure. This change would reduce the regulatory burden on homeowners and allow for more effective allocation of Town resources.

Direct inquiries to: Roland Bartl, Planning Director: [planning@acton-ma.gov](mailto:planning@acton-ma.gov) / (978) 929-6631  
Selectman assigned:

**Recommendations:**      **Board of Selectmen**      **Finance Committee**      **Planning Board**

---